

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**UNITED STATES OF AMERICA,**

**v.**

**Criminal No. 2:09-cr-00251  
Judge John T. Copenhaver, Jr.**

**ROBERT M. OTISO.**

**MOTION TO RECONSIDER PRETRIAL DETENTION**

Defendant Robert M. Otiso is currently being detained pending trial. (*See* Arraignment Order and Standard Disc. Reqs., Doc. No. 35, 2, Dec. 21, 2009). Pursuant to 18 U.S.C. § 3142, and for the reasons provided below, Otiso respectfully requests reconsideration his pretrial detention.

1. This Court may reconsider the conditions of Otiso's pretrial detention at any time for any "compelling reason." *See* 18 U.S.C. § 3142(i).

2. Otiso's family and community ties, length of residence in the United States, and travel restrictions demonstrate conclusively that detention is not necessary to reasonably assure his appearance. *See id.* § 3142(g)(3). Because Otiso's detention is supported solely by the findings of fact contained in the detention order of the U.S. District Court for the District of Minnesota (*see* Arraignment Order at 2; Order for Detention, Doc. No. 16, Nov. 17, 2009), which relies on evidence not heard by this Court, these important factors were not considered.

3. Although a Kenyan national, Otiso has significant family and community ties to the United States. He is a permanent resident of the United States and has lived in the United States for over a decade. While living in the United States, Otiso has attended college, become gainfully employed, and started a family. He has worked at the

Hennepin County Medical Center (in Minnesota) for the last ten years. His wife, who works as a nurse at the same hospital, is also a permanent resident of the United States. He and his wife have one child, and that child is a citizen of the United States. In addition, members of Otiso's extended family (two cousins with whom he was raised) are U.S. permanent residents who are gainfully employed professionals; one is a practicing attorney, the other a professional engineer.

4. Otiso's passport has been seized by the Government. Facts recited by the District of Minnesota imply that Otiso could be planning to flee the United States for Kenya because a search revealed evidence of land purchased in Kenya and of a plan to create false identification documents, including a fake passport. Evidence of an attempt to forge identification documents was found in the home of one of Otiso's alleged accomplices, not in Otiso's home. Otiso denies complicity in any supposed plot to flee the United States with forged documents.

WHEREFORE Defendant Robert M. Otiso respectfully moves this Court to RELEASE him, imposing any conditions believed necessary to reasonably assure his appearance, in accordance with 18 U.S.C. § 3142.

ROBERT M. OTISO

By: The Tinney Law Firm, PLLC

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 4, 2010, I electronically filed the foregoing  
“**Motion to Reconsider Pretrial Detention**” with the Clerk of the Court using the  
CM/ECF system which will send notification of such filing to the following CM/ECF  
participant:

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/s/ John H. Tinney, Jr.  
John H. Tinney, Jr. (WV Bar No.: 6970)